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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 6.11.2006.

Jaswant Singh @ Lakha and others .... Appellants.

vs

Gurdev Singh and others .....Respondents.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.R.N.Moudgil,Advocate,for the appellants.

*Kiran Anand Lall, J.*

The appellants were defendants in the suit wherein the respondents had sought restraint against them from using the land comprised in khasra no.311 (0-6), as Hadda Rori viz. a place for throwing and storing the remains of dead animals.

The trial court as well the first appellate court having decreed the suit against the appellants, they are, now, in regular second appeal before this court.

Admitted facts are that though earlier, khasra no.311 was being used for the purpose, but the Gram Panchayat of Village Purkhali, vide resolution no.3 dated 16.2.2001, decided that from thence onwards, khasra no.635 would be used for throwing and storing the remains of dead animals as, with the passage of time, village-abadi had spread not only upto but even beyond khasra no.311 and, otherwise also, as there was cremation ground in khasra no.311, the foul smell emanating from the Hadda Rori, created nuisance at the time of cremation of human-bodies.

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The respondents had to file the suit, seeking permanent injunction against them, as they (appellants) threatened that they would not allow the use of khasra no.635 as Hadda Rori.

The appellants contested the suit, pleading that it was not maintainable, as respondents had no right or title over the suit property, and it had been filed, only to harass them. It was further pleaded that the Gram Panchayat was not competent to change the place of Hadda Rori.

Since it was an admitted fact that previously khasra no.311 (0-6) was being used as Hadda Rori and, later on, the Gram Panchayat (vide resolution no.3 dated 16.2.2001) had decided that thence onwards, khasra no.635 (and not khasra no.311) would be used as Hadda Rori, the only question for decision before the courts below was, as to whether the Gram Panchayat was competent to change the place of Hadda Rori.

Both the courts found that the impugned decision of change of place of Hadda Rori was taken by the Gram Panchayat, after passing a resolution to that effect on 16.2.2001, keeping in view the fact that the village abadi had already extended beyond khasra no.311 and the foul smell emanating from the Hadda-Rori was a source of nuisance to the public at the time of cremation of human-bodies in khasra no.311 which was cremation ground also. As recorded in para no.15 of the judgment of the first appellate court, the resolution, Ex.PW5/A, had been passed, after getting a proclamation (munadi) effected in that regard, in the village.

Today, when the appeal was taken up for hearing, learned counsel could not point out any substantial question of law involved in this appeal. He could also not dispute that the Gram Panchayat, as per Sections 34 and 35 of the Punjab Panchayati Raj Act, 1994, was within its rights to

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change the place of Hadda Rori.

The appeal is, thus, without any merit, and shall, therefore, stand dismissed, in limine.

6.11.2006. (Kiran Anand Lall)
vs. Judge.